

N<sup>o</sup>. 683

C. G. Burgeon's Printing Business, 146-150 Centre St. N.

Office Supreme Court  
**FILED**  
JUN 1 1898  
JAMES H. McKENNA

683  
*Brief of Valentine for Reop*  
IN THE SUPREME COURT OF THE UNITED STATES.

*Filed June 1, 1898.*

ELLIS H. ROBERTS, Treasurer of the  
United States, petitioner for a  
Writ of Certiorari,

VS.

October Term,  
1897.

THE UNITED STATES OF AMERICA EX  
REL. MARIE A. VALENTINE, Defend-  
ant in Error.

**BRIEF FOR RELATOR.**

**Opposing Petition for Writ of Certiorari.**

This Court will not issue any writ upon the showing made by the petitioner in the above-entitled matter.

Assuming the general powers of the Court are sufficient to give it jurisdiction to issue such writ, in an emergency not otherwise provided for, yet this Court has in unmistakable language declared what the emergency *must* be which will warrant it in such extraordinary exercise of its powers.

In the recent case of Forsyth vs. Hammond, this Court says: "It is a power which will be sparingly exercised, and only when the circumstances of the case satisfy us that the importance of the question involved, the necessity of avoiding conflict between two or more Courts of Appeal, or between Courts of Appeal and the Courts of a State, on some matter affecting the interests of this nation in its internal or



" external relations demands such exercise " (166 U. S., p. 514).

No such elements appear in this case, and there is nothing in the petition which suggests any grounds for this Court to interfere with the deliberate action and the carefully expressed opinions unanimously rendered in both Courts below, in their efforts, so far as possible, to right an injustice done to the relator by the failure of the appellant to perform his plain ministerial duty.

There is not even a suggestion that there are any other claims which the decision in this case might affect. From the very nature of the case the claims involved in this matter stand alone. There is no conflict of authorities to be finally settled by this Court, nor any " interest of the nation " to be conserved by further litigating a matter which both the Courts below have characterized as " too plain to admit of any doubt."

The points made by the petitioner on this application were fully considered in the Court below. A copy of the brief of appellee answering the same is submitted herewith, and a careful perusal of the opinion of Mr. Justice COLE on the original application, and of Mr. Justice SHEPARD, who wrote the opinion of the Court of Appeals, will be sufficient to convince this Court that, even if this matter was one which came within the enumeration prescribed in *Forsyth vs. Hammond*, the plaintiff in error is absolutely without merit on any matter of law, and so absolutely without *equity* that the Court will not for one moment entertain this application to keep alive a litigation wherein the plaintiff in error has had his day in court to the fullest limit permitted by our statutes.

The application for the writ of *certiorari* should be denied with costs.

B. E. VALENTINE,

Attorney for Relator.



